

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**NORFOLK COUNTY RETIREMENT )  
SYSTEM and PLUMBERS LOCAL UNION )  
519 PENSION TRUST, individually and on )  
behalf of all others similarly situated, )**

**Plaintiffs,**

**V.**

**DANIEL C. USTIAN, ROBERT C. LANNERT, MARK T. SCHWETSCHENAU, NAVISTAR INTERNATIONAL CORPORATION, and DELOITTE & TOUCHE LLP,**

## Defendants.

**Case No. 07-cv-07014**

**Judge Robert W. Gettleman**

**Magistrate Judge Nan R. Nolan**

**NAVISTAR DEFENDANTS' MOTION TO CERTIFY FOR INTERLOCUTORY  
APPEAL PURSUANT TO 28 U.S.C. § 1292(B) THE COURT'S ORDER  
DENYING NAVISTAR DEFENDANTS' MOTION TO DISMISS**

For the reasons set forth more fully in the memorandum of law being submitted herewith, Defendants Daniel C. Ustian, Robert C. Lannert, Mark T. Schwetschenau and Navistar International Corporation (“Navistar Defendants”) hereby move this Court for an order certifying for interlocutory appeal pursuant to 28 U.S.C. § 1292(b) the Court’s order denying the Navistar Defendants’ motion to dismiss. Specifically, Navistar Defendants respectfully request that the Court certify the following issue for interlocutory review:

**Whether a plaintiff alleging an efficient market and a fraud-on-the-market claim must plead that a significant stock decline occurred “promptly” after the “truth” is publicly revealed to the market?**

Navistar Defendants further request whatever other relief the Court deems appropriate.

Dated: August 17, 2009

Respectfully submitted,

/s/Sean M. Berkowitz

One of the Attorneys for Defendants  
Navistar International Corporation,  
Daniel C. Ustian, and Robert C. Lannert

Laurence H. Levine  
Maaïke S. Almeida  
LAURENCE H. LEVINE LAW OFFICES  
190 South LaSalle Street, Suite 3120  
Chicago, Illinois 60603  
Phone: (312) 291-7000  
Fax: (312) 291-7015

Sean M. Berkowitz  
Cary R. Perlman  
Mark S. Mester  
Robin M. Hulshizer  
Matthew L. Kutcher  
Robert C. Levels  
LATHAM & WATKINS LLP  
Sears Tower, Suite 5800  
233 South Wacker Drive  
Chicago, Illinois 60606  
Phone: (312) 876-7700  
Fax: (312) 993-9767

s/Patrick S. Coffey

One of the Attorneys for Defendant  
Mark T. Schwetschenau

Patrick S. Coffey  
Timothy M. Maggio  
LOCKE LORD BISSELL & LIDDELL LLP  
111 South Wacker Drive  
Chicago, Illinois 60606  
Phone: (312) 443-0700  
Fax: (312) 896-6702